

Date: January 21, 2009

To: Interested Parties

RE: **UPDATE: Industrial Development Bond (IDB) Allocation Point System**

The California Industrial Development Financing Act of 1980 (the Act), which authorized the creation of local industrial development authorities, CIDFAC, and the issuance of IDBs for the first time in California, requires a finding that the IDB-financed projects produce public benefits. A point system to measure the public benefits of individual IDB projects is consistent with the requirements of the Act, which reads in part:

"It is the purpose of this...[Act]...to provide industry with an alternative method of financing in acquiring, constructing, or rehabilitating facilities in accordance with the criteria set forth...all to the mutual benefit of the people of the state and to protect their health, welfare, and safety...Applications for projects or companies not in accordance with the reasonable priorities and criteria which an authority may establish need not be accepted and further processed by an authority...Upon acceptance of any application and request of a company, the [authority] board shall determine whether it is likely that the undertaking of the project by the authority will be a substantial factor in the accrual of one or more of the public benefits from the use of the facilities as proposed in the application...and whether the project is otherwise in accord with the purposes and requirements of this title... At any time following adoption of the resolution of intention, the [authority] board shall request that the commission [i.e., CIDFAC] make the determinations authorized by this section... The commission shall review the submission and shall, by express findings on the basis of the submission, determine compliance with the following criteria...Public benefits, determined in accordance with the policy stated in...[the Act] from the use of the facilities likely will substantially exceed any public detriment from issuance of bonds in the estimated principal amount proposed in the application." [Emphasis added]¹

The current California Debt Limit Allocation Committee (CDLAC) point system for evaluating the public benefits of individual IDB projects was put into place in early 2000. There is a general sentiment among IDB issuers and practitioners, and CIDFAC staff, that some of the metrics used for awarding points and some of the point categories do not reflect (1) the true state of manufacturing in California today and (2) the contributions that manufacturing makes, and should be encouraged to make, to California's economy and environment. CIDFAC staff believes there is value in maintaining a point system for evaluating IDB projects. Such a system provides a means of (1) organizing and highlighting the information regarding each project's public benefits in a consistent manner and (2) measuring the comparable public benefits of each project when demand for IDB tax-exempt allocation exceeds the amount available.

Therefore, in keeping with CIDFAC's Strategic Plan, (approved by the Commission at its September 2008 meeting) CIDFAC staff proposes revisions of the current CDLAC point system for IDBs to (1) make it more user-friendly for issuers, practitioners and borrowers (2) provide greater recognition to manufacturers' contributions to California's workers, economy and environment.

¹ Government Code Sections 91502, 91530, and 91531

CIDFAC staff's goal is to implement a revised point system for use during the 2009 allocation year. To accomplish this goal, staff has developed the following schedule for the revision process:

- CIDFAC staff will present a proposed revision to the CDLAC point system for IDBs at its February 25, 2009 board meeting. Staff will recommend that the Commission approve submission of the proposed revision to CDLAC for its review and approval.
- Upon favorable action by CIDFAC, staff anticipates CDLAC will announce a 30-day comment period on the proposed changes at a subsequent Committee meeting. Staff also anticipates that, following the 30-day comment period, CDLAC staff will present a revised IDB point system to the Committee for its approval. Upon CDLAC approval of a revised point system, CIDFAC staff anticipates the new point system, along with a revised IDB application that reflects the new point system, will be effective no less than 30-days prior to the next CIDFAC deadline for applications following CDLAC's approval.
- Dates may change as needed to accommodate the revision process. Any schedule changes will be announced in advance.

The following is an update of the August 21, 2008 version of a proposed revision to CDLAC's point system for IDBs. The revision process has included outreach efforts. CIDFAC staff sought comments from IDB issuers, practitioners and other interested parties. On August 21, 2008, staff posted proposed revisions to the point system on CIDFAC's website with a request for written comments by September 30, 2008. Additionally, staff emailed the proposed revisions to all parties on the CIDFAC mailing list, and noticed a public workshop on the proposed revisions for October 22, 2008. CDLAC also emailed the proposed revisions to all parties on its mailing list. CIDFAC and CDLAC staff conducted a joint, two-hour workshop on October 22nd, which permitted in-person participation as well as phone-in participation. The workshop provided a forum for questions and for delivering verbal comments on the proposed revisions. It also offered an opportunity for CIDFAC staff to solicit additional written comments by close of business October 27, 2008.

Based on comments received and findings from follow-up research and inquiry, CIDFAC staff has amended the August 21st proposed revisions. Overall, staff proposes changes to existing point categories, the addition of new point categories and an increase in total available points from 85 to 137.

UPDATED IDB ALLOCATION POINT SYSTEM

(1) JOBS: Staff proposes to create a new JOBS category, designate JOB CREATION and JOB RETENTION as separate subcategories, eliminate the "jobs-per-bond" method of awarding points for job creation and job retention, and increase the maximum number of points from 25 to 35. (35 points maximum)

- Under the JOB CREATION subcategory, staff believes the criteria for awarding points should reflect the fact that manufacturing today, thanks to technological advances, is much less labor intensive. As an alternative approach to awarding points for job creation based upon a calculation of "jobs-per-bond-amount," staff proposes a scale based on a percentage increase in the manufacturer's workforce. A benefit of this alternative approach is that it levels the playing field between lower-cost and higher-cost areas within the state. For example, an IDB project planned for the City of Los Angeles would likely face higher land costs and therefore require more tax-exempt bond funds than a similar IDB project planned for the City of Fresno. Under the "jobs-per-bond-amount" award system, even if the Los Angeles project would create the same number of jobs as the Fresno project, it may receive fewer points because it requires more bond funds. This alternative approach also levels the playing field among manufacturers. Those with

higher equipment and facility costs simply due to the nature of their product lines and the regulatory scheme under which they operate are not penalized for requesting a greater amount of tax-exempt allocation than manufacturers with lower equipment and facility costs.

Staff reviewed job creation data for 45 IDBs issued from 2005 through 2008 and found that the lowest percentage of increase over existing employees was 7.1% and the highest percentage increase over existing employees was 807.7%. Such extremes in the data resulted in an average increase over existing employees of 94.1%. However, of the 45 IDB transactions, 17 had increases over existing employees of up to 30% and 11 had increases over existing employees of between 31% and 50%.

This proposal awards points in the following manner, based on the Borrower/User's representation that they will make their best efforts to increase the number of direct, full-time employees at the Project site within two years of Project completion (25 points maximum):

- 10% to 20% increase (10 points)
- 21% to 30% increase (15 points)
- 31% or more increase (25 points)
- For JOB RETENTION, staff proposes that the criterion for awarding points remains the retention of the manufacturer's current workforce in the face of economic pressures to (1) move out of California or (2) cease operations. Staff proposes that the standard of proof continue to include written confirmation from the local government that the company was contemplating moving or closing within two years of its application for tax-exempt IDB financing, and that the ongoing operations of the company within the local jurisdiction is important to the local economy and local employment. However, as another option for meeting the standard of proof, staff proposes to also accept written evidence from the Borrower and/or User that the company, within two years prior to the submission of an application for tax-exempt IDB financing, engaged a "site selector" to find possible relocation sites outside of California. (10 points)

(2) HEALTH, DENTAL & VISION BENEFITS, and RETIREMENT ACCOUNT BENEFITS: For this category, staff proposes to eliminate the child care benefits option. CIDFAC staff reviewed all IDB projects approved back to calendar year 2005 and found that no points were awarded to any project for child care benefits. Further, current CIDFAC staff has never received an application where child care benefits have been documented.

Also for this category, staff proposes to add company contributions to workers' retirement accounts (e.g., a 401K account or pension account), to increase the number of total points awarded in this category, and to increase the contribution levels by 10%. The objective of increasing the total number of points in this category is to provide greater acknowledgement of the public benefit bestowed when employers contribute to their workers' health care and retirement plans. The modest increase in the health care contribution levels reflects the fact that, since the current contribution levels were established in 2000, the cost of employer-provided health plans has increased.² Staff reviewed health benefits contribution levels reported by

² The California Medical Association reports on its website that "[n]ot only are fewer employers offering coverage, but many employees are finding even employer-offered coverage unaffordable. From 2001 to 2003 alone, the cost of job-based insurance rose by 80 percent for the average worker." (See "The Health Care Landscape in California" at www.cma.org.) The California HealthCare Foundation's 2008 California Employer Benefits Survey shows that premiums for health care plans increased by 8.3% in 2008 alone.

Borrowers/Users from 2005 through 2008 and found that the per month employer contribution levels ranged from \$117 to \$962. Contributions averaged \$334 in 2005, \$240 in 2006, \$494 in 2007 and \$388 in 2008. Of the 36 Borrowers/Users which provided employer health care, 21 reported employer contributions in excess of \$300 per month per covered employee, 10 reported employer contributions in excess of \$200 but less than \$300 per month per covered employee, and five reported employer contributions of less than \$200 per month per covered employee.

Staff proposes to continue to require the same proof of health, dental, vision, and, now, retirement benefits. Specifically, that standard of proof requires applicants to complete the benefits worksheet in the CDLAC application and to provide invoices or other official accounting documents as evidence of the company's contribution levels. CIDFAC and CDLAC staff will work together to make the benefits worksheet more user- friendly. Staff's proposal for awarding points in this category is detailed below. (20 points maximum)

Health, Dental and Vision

The Borrower/User must provide specific documentation to show it contributes toward the cost of employee and dependent medical, dental, and vision benefits. The Borrower/User must confirm that it will offer such benefits to employees hired in accordance with representations made with respect to the JOB CREATION category. The average health care contribution is computed by dividing the Borrower's total monthly aggregate contribution toward the provision of these benefits by the total number of participating workers employed by the Borrower.

- 1. The Borrower contributes an average of \$330 or more per month toward the cost of the medical, dental, and vision benefits for each participating employee and dependents of the employee. (15 points)**
- 2. The Borrower contributes an average of \$220 or more, but less than \$330, per month toward the cost of the medical, dental, and vision benefits for each participating employee and dependents of the employee. (10 points)**
- 3. The Borrower contributes an average of \$110, but less than \$220 per month, toward the cost of the medical, dental, and vision benefits for each participating employee and dependents of the employee. (5 points)**

Retirement

The Borrower must provide specific documentation to show it contributes to the 401(K) or other retirement account for each participating employee and must confirm that it will offer such benefits to employees hired in accordance with representations made with respect to the JOB CREATION category. (5 points)

(3) AVERAGE HOURLY WAGE: Staff proposes to change the criteria for awarding points in this category to include consideration of wages of existing employees as well as employees who will be hired in accordance with representations under the Job Creation category. Staff also proposes to increase the overall number of points in this category from 5 to 10 (see details below). Finally, since the state Employment Development Department (EDD) is no longer providing manufacturing wage data, staff proposes to use the production wage data available on the federal Bureau of Labor Statistics website (see <http://www.bls.gov/>). (10 points maximum)

The survey shows premiums have more than doubled since 2002. (Go to www.chcf.org.) Finally, CalPERS' January 2009 "Facts at a Glance: Health" shows that the state's contribution for state worker health plans has increased by approximately 13% since 2007. (Go to www.calpers.ca.gov.)

The Borrower/User must certify that the average hourly wage of existing employees and of employees who will be hired in accordance with representations under the Job Creation category, when compared to the most recent average hourly general manufacturing wage for the Metropolitan Statistical Area in which the project is located ("Job Wage") based on the Bureau of Labor Statistics Series Code, is:

1. One hundred twenty-five percent (125%) or more of the Job Wage. (10 points)

2. One hundred fifteen percent (115%) to one hundred twenty-four percent (124%) of the Job Wage. (6 points)

3. One hundred five percent (105%) to one hundred fourteen percent (114%) of the Job Wage. (3 points)

(4) COMMUNITY ECONOMIC NEED: Staff proposes to continue awarding points in this category using current criteria. (25 points maximum)

(5) WORKFORCE and ECONOMIC DEVELOPMENT: Staff proposes to create a new WORKFORCE and ECONOMIC DEVELOPMENT category. The proposal (1) responds to the need voiced in literature, the media, government conferences and economic development forums to ensure California's workforce is adequately trained and prepared for existing manufacturing jobs as well as for jobs in the new economy, including the green sector; and (2) represents an effort to more fully recognize manufacturers' contributions to California's economy. As proposed, this category has the following subcategories: (15 points maximum)

- **WELFARE TO WORK:** Staff proposes to continue awarding points in this subcategory using current criteria. (5 points)
- **WORKFORCE TRAINING:** Several programs operated by the state's Employment Training Panel (ETP) help businesses train or re-train workers. In addition, programs operated at the local level on behalf of the state (e.g., Workforce Investment Act programs through the EDD and the Apprenticeship Program through the California Department of Industrial Relations) offer employers access to specific types of training by certified training entities. Finally, community colleges, universities, adult schools, Regional Occupational Programs, and private training agencies approved by the Bureau for Private Postsecondary and Vocational Education offer workforce training programs. Staff proposes to award points to IDB projects when the Borrower/User participates in one or more of the programs listed above. To qualify for points in this category, the Borrower/User must provide copies of official documentation of its current or pending participation in one of the above programs. Such documentation shall include: (1) a copy of an executed contract between the Borrower/User and the provider; or (2) a formal letter from the provider addressed to the Borrower/User acknowledging the Borrower/User's current or pending participation in the program. (5 points)
- **EXPORTS OUTSIDE CALIFORNIA:** The purpose of this subcategory is to recognize the additional economic benefits that accrue to the state when manufacturers export some or all of their products to other states or countries. The literature consistently cites the "multiplier effect" created by manufacturers who export their products. Research shows that when manufacturers export, they triple the economic benefits their operations provide to their home states. An officer or owner of the Borrower/User must certify in writing on Borrower/User letterhead that it exports, or in the case of the construction of a new manufacturing facility at a new Project site, anticipates it will export as part of its business plan:

Up to 20% of its products manufactured at the Project site (2 points)

Up to 30% of its products manufactured at the Project site (3 points)

In excess of 30% of its products manufactured at the Project site (5 points)

(7) ENVIRONMENTAL STEWARDSHIP: Staff proposes a new ENVIRONMENTAL STEWARDSHIP category. Under the proposal, the current LAND USE, ENERGY EFFICIENCY and PUBLIC TRANSPORTATION categories will become subcategories. CIDFAC staff proposes to rename the ENERGY EFFICIENCY subcategory ENERGY EFFICIENCY/RENEWABLE ENERGY. In this expanded subcategory, points will be awarded energy efficiency measures and installation and use of renewable energy equipment to power the manufacturing process. In addition, CIDFAC staff believes the TRANSPORTATION subcategory can be improved by clarifying the criteria for awarding points to projects that are in proximity to public transit. Also under TRANSPORTATION, staff proposes awarding points to employers who subsidize public transportation for its employees. Finally, staff proposes changes in the points available under the existing categories. The following are the amended subcategories for projects seeking points for Land Use, Public Transportation, and Energy Efficiency/RENEWABLE ENERGY:

LAND USE: Projects that involve the reuse (a) vacant or abandoned buildings or (b) vacant or abandoned land with developed infrastructure, excluding land where the immediate prior use was agricultural, open space or other similar use. (3 points)

PUBLIC TRANSPORTATION:

1. Projects that are located within $\frac{1}{4}$ of a mile of a regular route stop within a Public Transit Corridor or, in areas where there is no public transportation system, the Borrower/User has an adopted transportation system management plan (3 points); **OR**
2. Projects that are located within a $\frac{1}{4}$ -mile of a regular route stop within a Public Transit Corridor and where the Borrower/User provides written evidence of offering public transit subsidies for employees at the Project site (4 points)

ENERGY EFFICIENCY/RENEWABLE ENERGY:

1. Projects that utilize designs, materials or techniques to reduce energy use by at least fifteen (15%) on the part of the Borrower/User compared to the following benchmarks: (1) for building construction or rehabilitation, the most recent California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; and (2) for equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Borrower and/or User. Documentation must include a utility company letter confirming the projected energy savings, or a written certification of projected energy savings from a recognized energy efficiency consultant. (5 points)

2. Projects that involve the installation and use of renewable energy (as defined under California Public Resources Code 26003) equipment to power the production process. The Borrower and/or User must provide written documentation from its utility company which specifies the installation or planned installation of the renewable energy equipment. (5 points)³

Finally, under the ENVIRONMENTAL STEWARDSHIP category, staff proposes the creation of two new subcategories, which will bring the maximum number of points available under this category to 27:

MANUFACTURER OF CERTIFIED ENVIRONMENTALLY FRIENDLY PRODUCTS: Points will be awarded to projects which produce or will produce environmentally friendly products certified by an ANSI Accredited Standards Developing Organization (e.g., Green Seal, Inc.) or by a widely-recognized and reputable organization accredited as a certifier by an ANSI Accredited Standards Developing Organization or by the Forest Stewardship Council (e.g., Scientific Certification Systems, Inc.). The Borrower and/or User must provide the current, official documentation of the certification and must provide the percentage of the project's overall output that is comprised of the certified products. (5 points)⁴

U.S. Green Building Council (USGBC) LEED-CERTIFIED MANUFACTURING FACILITY: Points will be awarded to Projects for which bond proceeds will be used to construct U.S. Green Building Council (USGBC) LEED-certified facilities or to make improvements to existing facilities that will qualify it for a LEED-certificate. The Borrower and/or User must provide either (1) official documentation of its registration (including evidence of payment of the registration fee) with the USGBC to obtain LEED certification in cases where the project involves the construction of a new facility and construction has not begun or is not complete at the time of application or (2) official documentation of receipt of either the Certified, Silver, Gold, or Platinum LEED Certification in cases where construction or improvements and the certification process are completed. (5 Points)

(8) LEVERAGE: Using the current scale, CIDFAC staff proposes to award points to IDB projects for which the borrower, in addition to tax-exempt bonds, will use taxable IDBs, a taxable loan, and/or private funds or equity to finance portions of the overall project. See the details below. (5 points maximum)

³ Public Resources Code 26003 (i) (1): "Renewable energy" means any device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

- (A) Biomass.
- (B) Solar thermal.
- (C) Photovoltaic.
- (D) Wind.
- (E) Geothermal.

⁴ ANSI is the American National Standards Institute which facilitates the development of American National Standards by accrediting Standards Developing Organizations for a wide variety of products, manufacturing and industrial processes, and distribution processes for goods, services, and energy. ANSI is the only U.S.-based organization that approves standards as American National Standards, and it is the U.S. member in the International Organization for Standardization (ISO), the world's largest developer and publisher of international standards. The Forest Stewardship Council is an international organization with a U.S.-based affiliate, and it is an organization in cooperation with the ISO.

Points will be awarded to projects for which taxable debt, a taxable loan, and/or private funds or equity will supplement the use of tax-exempt bond financing. The Borrower and/or User must provide overall project costs and certify that one or more of these other sources of financing will be used for project expenses:

1. Greater than twenty percent (20%) of total project costs will be paid from one or more of these other sources of financing. (5 points)
2. Greater than ten percent (10%) and up to twenty percent (20%) of total project costs will be paid from one or more of these other sources of financing. (3 points)